

CITY OF JACKSONVILLE

ELLEN SCHMITT
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LATONYA LIPSCOMB SMITH



J.J. DIXON
VICE CHAIR

WILLIAM MAULE
JUDGE LINDA MCCALLUM
SCOTT SIMPSON

ETHICS COMMISSION

City Hall, First Floor, Lynwood Roberts Room

Thursday, July 27, 2023

The meeting was called to order at 5:03 p.m. by Ms. Schmitt. Ethics Commission attendees: Chair Ellen Schmitt, J.J. Dixon, Darcy Galnor, William Maule, Linda McCallum, and Scott Simpson. Erich Freiberger was unexcused. LaTonya Lipscomb Smith was excused.

Others in attendance: Kirby Oberdorfer, Director of the Office of Ethics, Compliance and Oversight (OECO); Paige Johnston, Ethics Attorney (OECO); Andrea Myers, Program and Training Manager (OECO); Sandy Homrighouse, Executive Assistant (OECO); and Cherry Shaw Pollock, Office of General Counsel (OGC).

Public In Attendance: None.

Confirmation of Quorum:

Six (6) Ethics Commission members were present in-person and a quorum for the meeting was established. The Ethics Commission members and staff introduced themselves for the record.

Minutes Approval:

January 11, 2023, Ethics Commission Meeting minutes: Mr. Simpson made a motion to approve the minutes. Ms. Dixon seconded the motion. There being no discussion, the motion to approve the minutes passed unanimously with a vote of 6-0.

June 13, 2023, Ethics Commission Special Meeting minutes: Ms. Dixon made a motion to approve the minutes. Ms. Galnor seconded the motion. There being no discussion, the motion to approve the minutes passed unanimously with a vote of 6-0.

Reports:

ECO Office: Ms. Oberdorfer stated OECO has been busy conducting training for the Mayor and her staff, transition committees, new and returning City Council members and elected officials, and new employees and Boards and Commissions members. OECO has completed conflict checks and provided ethics advice regarding transition matters. Ms. Schmitt and Mr. Maule attended the City Council training and were very impressed with the training provided by OECO.

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Office of General Counsel: Ms. Pollock stated that OGC currently has an interim acting General Counsel, Bob Rhodes, who started July 1. The General Counsel Qualifications Committee, chaired by Jason Gabriel, former General Counsel, is interviewing candidates and the new General Counsel should start October 1. Ms. Schmitt asked Ms. Pollock to bring the new General Counsel to an Ethics Commission meeting.

Legislative Committee: Ms. Galnor stated the Legislative Committee met on July 25.

Complaints Committee: Ms. Dixon stated the Complaints Committee has been very busy and has four cases pending and will be scheduling a meeting soon.

New Business:

(1) Approval of Proposed Revision to the Ethics Commission Complaint Procedures Rule 1(a): Ms. Oberdorfer gave the background regarding a referral from the City Council Special Investigatory Committee on JEA Matters and possible legislative changes in Section 602.921(c), Jacksonville Ordinance Code, and stated the language drafted was to amend the Complaint Procedures Rule 1 to clarify the types of complaints considered. Ms. Oberdorfer referred to the new language handout and the new change to Rule 1(a). The language was drafted at the last Commission meeting in June but due to the Complaint Procedure requirement that it be written with 10 days advance notice of the meeting, it is being provided for action today. The language reads: "The Commission will only initiate an investigation against individuals pursuant to Section 602.921(a) of the Code." Mr. Simpson made a motion to adopt the language. Judge McCallum seconded the motion. Ms. Oberdorfer stated the Commission could consider additional language to bolster and clarify the rule. A discussion occurred. Ms. Pollock clarified that the underlying motion does not include Ms. Oberdorfer's additional language. Ms. Schmitt restated the motion is to amend the language of Rule 1(a) to include "the Commission will only initiate an investigation against individuals pursuant to Section 602.921(a) of the Code." Ms. Schmitt asked for public comment. None was given. There being no further discussion, the motion passed 6-0.

(2) Recommendations from Legislative Committee: Ms. Oberdorfer stated the Legislative Committee met on Tuesday and suggested changes to Rule 5(f), which were drafted following the Committee meeting and are shown on the new language handout in the Commission packet.

Judge McCallum stated that the language presented in the handout differed slightly from her recollection of the conversation of the Legislative Committee. A discussion took place regarding the changes in language as addressed at the Legislative Committee meeting. Ms. Schmitt summarized the changes in the language which differed from the language in front of them. Commission members discussed further modification of the language in the Rule. Ms. Oberdorfer restated the proposed language following the discussion as:

Rule 5 Procedures Upon Receipt of a Complaint of Violation of the Code.

(f) Complaints Within 60 Days of Election Returned. Any Complaint against a candidate in a general, special, or primary election that is received within the sixty days immediately preceding the date of that election, will be returned by the Office of Ethics, Compliance & Oversight to the person filing the Complaint, with an explanation of why the Complaint is being returned and without any action being taken by the Commission. A Complaint returned pursuant to this provision and subsequently refiled after the election shall be deemed to have been filed on the date the Complaint was first submitted to Office of Ethics, Compliance & Oversight.

Additionally, nor may any intention of filing such a Complaint be disclosed on the day of any such election or within sixty days immediately preceding the date of the election.

The Commission members further commented on the new language. Judge McCallum made a motion to adopt the language. Ms. Galnor seconded the motion. There was no public in attendance and no public comment. There was no further discussion and the motion passed with a vote of 6-0.

(3) Proposed Change to Section 602.921(c), Jacksonville Ordinance Code. Ms. Oberdorfer gave background on Section 602.921(c) regarding the referral from the Legislative Committee. The Legislative Committee recommended striking language in Section 602.921(c) and replacing it within language from the City Charter (i.e., recommend changes in legislation to City Council in the areas of ethics laws and administration, conflicts of interest, hotline policies, ethics education, ethics in procurement, campaign ethics, and lobbying). A discussion followed. Judge McCallum made a motion to adopt the recommendation of the Legislative Committee. Ms. Galnor seconded the motion. There was no public in attendance and no public comment. There was no further discussion and the motion passed with a vote of 6-0.

(4) 2023 Committee Re-Assignments: Ms. Schmitt referred to the handout regarding committee re-assignments.

(5) Appointment of Nominating Committee and Process for Upcoming Ethics Commission Vacancy: Ms. Schmitt stated her term is ending and asked for volunteers to serve on the Nominating Committee to find her replacement. Ms. Oberdorfer explained the process. There will be a general call for applications. Next will be meetings and interviews which will take three to four weeks. This is followed by a six-week City Council confirmation process. Ms. Oberdorfer suggested the Nominating Committee start in August to fill the vacancy. The following members volunteered to serve on the Nominating Committee: Ms. Schmitt, Mr. Maule, Mr. Simpson, and Ms. Dixon. Ms. Schmitt asked Ms. Homrighouse to poll the members for their availability to attend meetings.

(6) Ethics Commission Annual Report: Ms. Oberdorfer stated the annual report was filed June 30. A copy of the Report was included in the informational packet for the Commission.

(7) Ethics Office Budget FY 2023-2024: Ms. Oberdorfer stated the budget hearing for OECO is August 11. She provided an overview of the OECO budget and changes in the budget from last year to this year.

(8) Ethics Director Performance Review: Ms. Schmitt is in the process of completing the Ethics Director's performance review and will present it to the Ethics Commission at the next meeting.

Public Comment:

Ms. Schmitt requested public comment. No public comment was provided.

Announcements:

Ms. Oberdorfer stated there was a story on Action News Jax about the Commission's decision on the Jason Gabriel matter. There were comments about how in the history of the Commission there has never been probable cause, or a violation found and what does that say about the Commission. The news story will be sent to you. Ms. Schmitt stated that this could be discussed at the next meeting.

The Chair adjourned the meeting at 6:04 p.m.

Sandy Homrighouse

10-30-23

Sandy Homrighouse, Executive Assistant, OECO

Date of Approval

This is a summary of the meeting and not a verbatim transcription. A recording of these proceedings is available at <http://www.coj.net/departments/ethics-office/notices,-agendas-minutes> .